

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101
Prepared by: Christopher M. Gratz, Planner II

SUBJECT: Quasi Judicial Hearing: Variance, V 5-1-03 Zarbafi Estates, 5150 South Pine Island Road/Generally located on the east side of South Pine Island Road, 1700' north of Stirling Road

AFFECTED DISTRICT: District 2

TITLE OF AGENDA ITEM: V 5-1-03 Zarbafi Estates, 5150 South Pine Island Road

REPORT IN BRIEF: The petitioner has requested a variance from: §12-81A of the Land Development Code which requires the following minimums: 12,000 square feet lot area, 100' lot frontage, 15' side yards; to: the following minimums: 10,500 square feet lot area, 75' lot frontage, 10' side yards, in order to allow the subject property to be developed with twenty-eight (28) single family homes.

This request is necessary to allow the 9.34 acres site to be developed with twenty-eight (28) single family dwellings. The development standards of the R-3, Low Density Dwelling District would preclude the applicant from achieving the maximum density permitted by the site's Future Land Use Plan Map classification because buildable land is lost when rights-of-way and/or water retention areas are dedicated. Additionally, a cul-de-sac is required because no vehicular access to SW 82 Avenue, a substandard roadway, is being provided.

The applicant's request to reduce lot size from 12,000 to 10,500 square feet, lot frontage from 100' to 75' and side yards from 15' to 10' only impacts the proposed development. All rear yards and required landscape buffers meet the requirements of the Land Development Code.

PREVIOUS ACTIONS: None

CONCURRENCES: At the August 27, 2003, Planning and Zoning Board meeting, Ms. Turin made a motion, seconded by Ms. Lee, to approve (Motion carried 4-0 with Chair Bender absent).

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Attachment(s): Planning Report, Justification, Conceptual Site Plan, Land Use Map, Zoning and Aerial Map

TOWN OF DAVIE
Development Services Department
Planning and Zoning Division Staff
Report and Recommendation

Applicant Information

<u>Owner:</u>		<u>Agent:</u>	
Name:	Mohammad Zarbafi	Name:	Ghasahem Kavanin
Address:	6310 SW 56 Street	Address:	11900 SW 11 Court
City:	Davie, FL 33314	City:	Davie, FL 33325
Phone:	(954) 275-5238	Phone:	(954) 224-1380

Background Information

Date of Notification: August 20, 2003 **Number of Notifications:** 25

Application History: No deferrals have been requested.

Application Request: Variance **FROM:** §12-81A of the Land Development Code which requires the following minimums: 12,000 square feet lot area, 100' lot frontage, 15' side yards; **TO:** the following minimums: 10,500 square feet lot area, 75' lot frontage, 10' side yards, in order to allow the subject property to be developed with 28 single family homes.

Address/Location: 5150 South Pine Island Road /Generally located on the east side of South Pine Island Road, 1700' north of Stirling Road.

Future Land Use Plan Map: Residential (3 DU/ AC), 9.34 acres

Proposed Density: 3 DU/ AC (28 dwelling units)

Existing Zoning: R-5, Low Medium Dwelling District

Proposed Zoning: R-3 Low Density Dwelling District

Existing Use: Abandoned agricultural use (pond, pump house, two (2) shade houses)

Proposed Use: Twenty-eight (28) single family dwellings

Parcel Size: 9.34 acres (406,850.4 square feet)

	<u>Surrounding Uses:</u>	<u>Surrounding Land Use Plan Map Designations:</u>
North:	Naugle's Nursery	Residential (3 DU/AC)
South:	Vacant	Community Facilities
East:	Madison Lakes (townhomes)	Residential (5 DU/AC)
West:	Single family dwellings	Residential (3 DU/AC)

Surrounding Zoning:

North:	A-1, Agricultural District
South:	CF, Community Facilities District
East:	RM-5, Low Medium Density Dwelling District
West:	R-1A, within the municipal boundaries of Cooper City

Zoning History

Related Zoning History:

Rezoning application ZB 7-1-99, was approved on June 21, 2000, changing the zoning on 19.8 acres.

- These requests included rezoning from A-1, Agricultural District and CF, Community Facilities to R-5, Low Medium Density Dwelling District and also rezoning from A-1, Agricultural District to CF, Community Facilities.

Rezoning application ZB 4-1-00, was approved on June 21, 2000, changing the zoning on 3.1 acres.

- The request included rezoning from A-1, Agricultural District to CF, Community Facilities.

A Small Scale Land Use Plan Amendment [LABC (SS) 99-4A] was approved (first reading) on August 4, 1999, to change the land use on the adjacent parcel to the south from to R-3, Residential (3 DU/AC) to CF, Community Facilities.

Previous Requests on same property: A deed restriction was voluntarily executed per Ordinance 2000-20 that limited the land to a maximum of 42 dwelling units and limited the infrastructure and recreation improvements to serve the development parcel.

The Davie Builders parcel was part of a previous Town and County Land Use Plan Amendment request in December 1998, which sought to allow for up to 10 units per acre. The Planning and Zoning Board recommended approval with conditions, and the Town Council denied the request.

The rezoning application, ZB 7-1-99, requested the assignment of 18 reserve units to the Future Residential property. In conjunction with the rezoning applications, the petitioner had voluntarily committed the future residential property to a restrictive covenant that limited the future residential property to a density of 81 residential units. The use of reserve units are required to permit the proposed R-5 zoning district within the designated Residential (3 DU/AC) land use designation.

The rezoning, ZB 5-1-03 Zarbafi Estates, is being processed concurrently with this variance request.

Application Details

The petitioner has requested a variance from: §12-81A of the Land Development Code which requires the following minimums: 12,000 square feet lot area, 100' lot frontage, 15' side yards; to: the following minimums: 10,500 square feet lot area, 75' lot frontage, 10' side yards, in order to allow the subject property to be developed with twenty-eight (28) single family homes.

Applicable Codes and Ordinances

Section 12-81A of the Land Development Code, Conventional Single Family Development Standards, requires the following minimums: 12,000 square feet lot area, 100' frontage, 15' side yards, 30' front yard, 25' rear yard, and 40% maximum building coverage.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 10. This Planning Area is generally located north of Stirling Road, south of Griffin Road, east of Pine Island Road, and west of SW 76 Avenue. Pine Island Road, a major north/south arterial, on the western limits of this planning area provides through access from Griffin Road to Stirling Road. Commercial development of retail centers and office buildings line the University Drive corridor. The east side of this corridor is predominantly small-scale commercial development, with multi-family residential development (one existing, one proposed) and plant nurseries on the northern half of the corridor, and commerce park development and cattle grazing on commerce park-zoned lands on the southern half. Commercial development also exists along Griffin Road within this planning area. Several small-scale single-family residential communities, two trailer parks totaling approximately 30 acres in area, and an 8 acre industrial park are located within this planning area, together with six parcels zoned for community facilities uses. These include, but are not limited to, a regional library, multiple church uses varying scales, a girl scout campground facility, and a private school.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 102.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-3:* Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

Staff Analysis

This request is necessary to allow the 9.34 acres site to be developed with twenty-eight (28) single family dwellings. The development standards of the R-3, Low Density Dwelling District would preclude the applicant from achieving the maximum density permitted by the

site's Future Land Use Plan Map classification because buildable land is lost when rights-of-way and/or water retention areas are dedicated. Additionally, a cul-de-sac is required because no vehicular access to SW 82 Avenue, a substandard roadway, is being provided.

The applicant's request to reduce lot size from 12,000 to 10,500 square feet, lot frontage from 100' to 75' and side yards from 15' to 10' only impacts the proposed development. All rear yards and required landscape buffers meet the requirements of the Land Development Code.

Findings of Fact

Variances:

Section 12-309(B) (1):

The following findings of facts apply to the variance request:

- (a) There ~~are~~ are not special circumstances or conditions applying to the land or building for which the variance is sought; which circumstances or conditions are not peculiar to such land or building and do apply generally to land or buildings in the same district; and that said circumstances or conditions are not ~~may not be such~~ that the strict application of the provisions of this chapter would ~~may not~~ deprive the application of the reasonable use of such land or building for which the variances are sought; and that alleged hardship is self-created by any person having an interest in the property.

The applicant contends that the special circumstances that apply to this subject site are that it is long and narrow and a cul-de-sac must be provided due to no vehicular access to SW 82 Avenue; these conditions generally apply to land in the same district and the subject site can be developed without the granting of a variance; the applicant believes that it is reasonable to reduce the minimum lot size, lot frontage and side yards of the R-3, Low Density Dwelling District in order to achieve the maximum density permitted by the site's Future Land Use Plan Map classification; the variance request is created by the desire to maximize use of the property.

- (b) The granting of the variance is not ~~may not be~~ necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

Staff cannot state that granting a variance to achieve the maximum density permitted by the Future Land Use Plan Map is necessary for reasonable use of the land, however the request is the minimum needed to construct the maximum number of dwellings permitted by the site's Future Land Use Plan Map classification.

- (c) Granting of the requested variances will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The intent of the Land Development Code is to allow freedom in design to achieve the permitted use of the land, and this request attempts to illustrates this principle by focusing on relief from development standards to achieve maximum density as opposed to asking for relief from development standards in order to create a unique site design or to provide amenities. Since the required rear yards and landscape buffers will be provided, staff finds that the development, as proposed, may be considered ~~will be~~ in harmony with the surrounding area since no residential developments about the property.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

Planning and Zoning Board Recommendation

At the August 27, 2003, Planning and Zoning Board meeting, Ms. Turin made a motion, seconded by Ms. Lee, to approve (Motion carried 4-0 with Chair Bender absent).

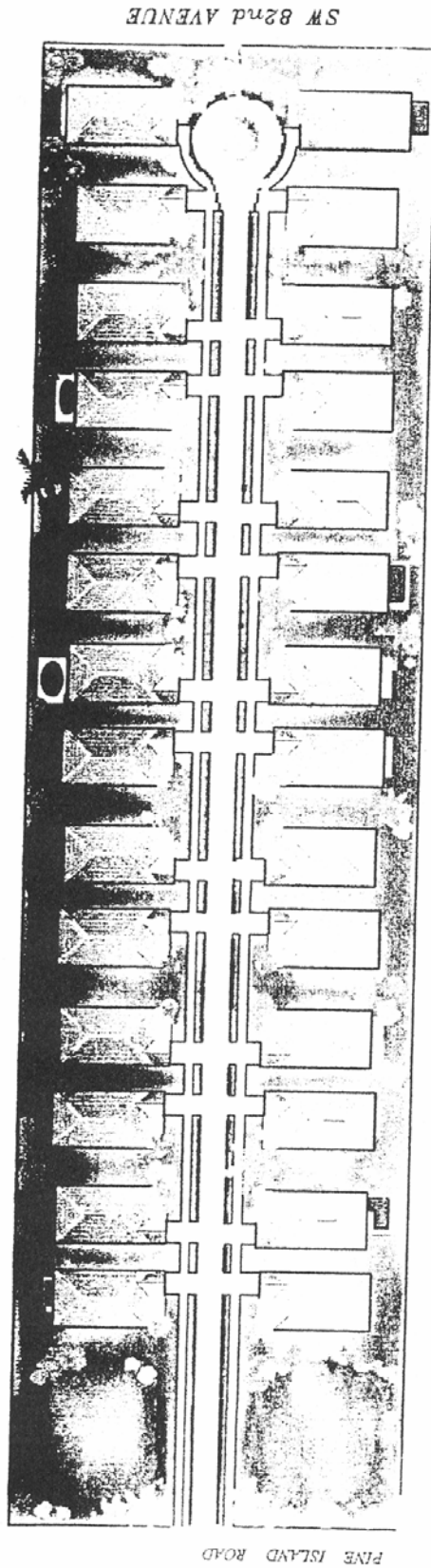
Town Council Action

Exhibits

1. Justification
2. Conceptual Site Plan
3. Future Land Use Map
4. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____



SW 82nd AVENUE

PINE ISLAND ROAD

ZARBAFI ESTATES

GHASEM KHAVANIN P.E.

11900 S.W. 11 CT. DAVIE FL., 33325 PHONE (954) 224-1380

JUSTIFICATION STATEMENT FOR VARIANCE REQUEST

(ZARBAFI ESTATES)

The petitioner requests variance from three (3) of the eight (8) conventional single family development standards found in Section 12-81A of Town of Davie Code. Specifically the petitioner requests a variance of minimum lot area from 12,000.00 square feet to 10,500.00 square feet, a variance of minimum lot frontage from 100 feet to 75 feet, and a variance of minimum side yard, 15 feet to 10 feet. No variance is requested or required for the 30 foot minimum front yard, 25 foot minimum rear yard, 35 foot maximum height, 1,000 square foot minimum dwelling unit floor area, and 0.40 maximum building coverage ratio.

The subject site contains approximately 9.34 gross acres that are vacant lands. The property is contiguous to and will have access to the east side of Pine Island Road. Situated approximately halfway between Griffin Road and Stirling Road. To the north are lands designed to R-3, on the eastern side is SW 82 Avenue, and across that, lands was rezoned to R-5, to the south the lands are designed to R-5, and to the western side of the site is Pine Island Road, which is four (4) lane divided arterial that forms the municipal boundary for the Town. There will be no access to the project from SW 82nd Avenue.

In 1997, Broward County expanded Pine Island Road between Griffin Road and Stirling road, proximate to the amendment site, and recently to the south of Stirling Road. This 4-lane divided highway has enhanced access and roadway capacity in the area. The roadway now forms a directly line to I-595 and to the other municipal, making it directly accessible and more urban in the nature.

Developments along the older portion of Pine Island Road north of the site maintain densities of an average of 3.6 units per acre in Forest Ridge, to densities of 5, 6.3, 10, and 16 units per acre, and along the south densities from A-1 to R-3, underscoring the urban nature of this roadway.

At the time petitioner requesting a rezoning of the property from R-5 to the zoning district R-3. This zoning would allow for a total of 28 single dwelling units. These single family homes would range in size with a minimum of 2500 square feet being anticipated.

A review of the Town of Davie Code indicates that any request for variance should include consideration of the criteria listed in the section 12-309 of the Land Development Code to determine if the request should be favorable

reviewed. These criteria with respect to the subject requests are discussed below.

Criterion (1): These are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or building in the same district; and that said circumstances or conditions are such that the strict application of the provisions of Chapter 12 of the Code of the Town would deprive the applicant of the reasonable use of such land or building for which the variance is sought, and that alleged hardship is not self-created by any person having an interest in the property.

Policy 6-1 of the adopted comprehensive plan of the town of Davie provides that moderate density should be located proximate to the arterial roadways, available mass transit and other community facilities, and generally sited east of the Pine Island Road. The subject site meets all of these criteria and is in fact considered low density. The applicant has developed preliminary site plans, for 28 lots allowed for the placement of dwelling units even assuming the variances are granted. In order for the petitioner to develop a feasible product that would provide quality single family homes, the petitioner requires the three(3) variances sought in order to achieve a total 28 dwelling units.

Physically the property is unusually long and narrow and requires an on-site drainage retention pond. Further, a circular cul-de-sac is required at the east end of the property where the property ends at a canal since the applicant does not intend to have access to SW 82nd Avenue. This circular turn-around requirement further eliminates space from the overall site requiring that the lots be made slightly smaller than designated by the Code, and slightly more narrow. The proposed lots would have a width of 75 feet and depth of 140 feet, for a total lot size of 10500 square feet. The 140 foot lot depth provides for a front yard of 30 feet in depth and a rear yard of approximately 30 feet in depth, where the code requires only 25 feet. The applicant seeks to reduce the side yard requirements from 15 feet on each side to 10 feet on each side again due to the long narrow shape of the property. In essence, the variance request for the minimum lot frontage and side yards must be considered in tandem, since they constitute virtually the same request. The current Code requirement would make the home sites unaffordable and the project unfeasible.

As a result, these variance requests satisfy this criteria in that the configuration of the land is peculiar and that the strict application of the Code would deprive the applicant of the reasonable use of the land for which the recent rezoning to R-3 was sought. Finally, the hardship is not self-created, but was created many years ago when the property was subdivided.

Criterion (2): The granting the variance is necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

The variance requested is the minimum variance that will accomplish the reasonable use of the land in that numerous architectural and engineering plans have indicated that without these variances a quality residential product cannot be developed or marketed on this site. If the variance is granted, it is anticipated that quality homes on substantial home sites can be constructed that will be a credit to the community and will not be out of place with the surrounding properties and development. Without the granting of these minimum variances, it will be economically unfeasible to proceed on any residential development of the property that would be compatible with an R-3 zoning district and the surrounding properties.

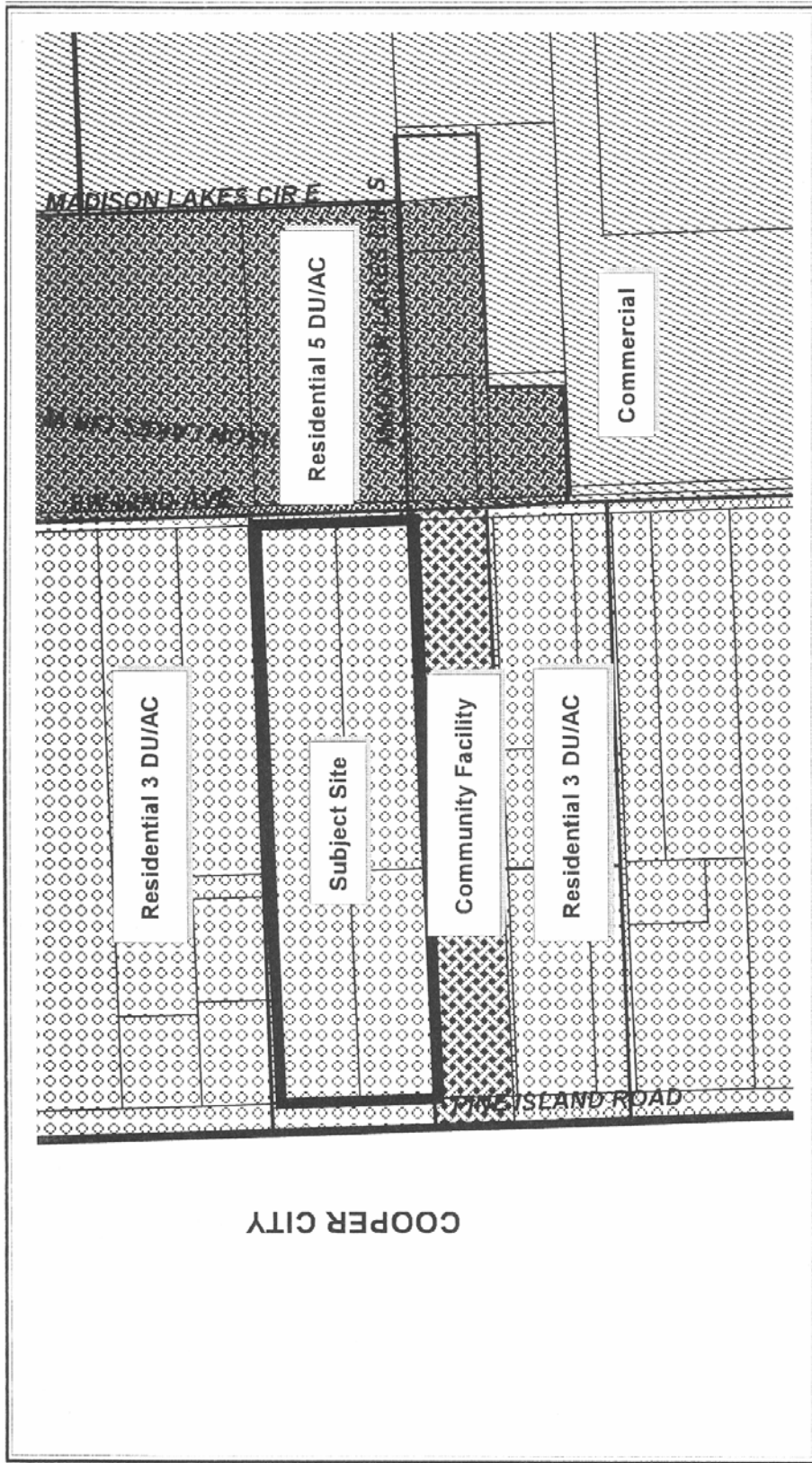
As a result, the requested variances satisfy this criterion.

Criterion (3): That granting the variance will be in the general purpose and intent of Chapter -12 of the Code of the Town of Davie and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The granting of the variance requested would result in single family dwelling units placed on the lots from 75 foot frontage with a 30 foot depth of front yard. The side yards would be a minimum of 10 feet on each side with a rear yard of 30 feet in depth rather than 25 foot as required by the Code. The dwelling unit would be in compliance with the 35 foot maximum height requirement and would be more than double of the 1,000 square foot minimum dwelling unit floor area. Finally, the maximum building coverage would be less than the 0.40 ratio allowed by the Code and is anticipated to be no greater than 0.38. The lot area would be 10,500 square feet rather than 12,000 square feet contemplated by the Code. These dimensions would be in harmony with the general purpose and intent of the Code in that they would exceed virtually all of the approved minimums for a multifamily development as found in the Code under 1282(B), (C), (D), (E), and (F). The granting of the proposed variance as requested would not be injurious to the neighborhood or otherwise detrimental to the public welfare, but rather would allow for the development of a quality single family home project including a lake and open space in excess of any required by the code. This project will also be compatible with property in the south (rezoned from A-1 to R-3 and variances were granted for 70 foot frontage, and 10 side set back and 9800 square feet total lot size), with the R-3 zoned property in north and the R-5 to the west and with Pine Island Road to the west.

As a result, this variance request satisfies this criterion.

As has been demonstrated the variances requested are consistent with the adopted comprehensive plan and meet all of the criteria contained in the Land Development Code. As a result this Application for Variance merits favorable consideration.



Date Flown:
12/31/00



300 0 300 600 Feet

Planning & Zoning Division - GIS



VARIANCE

V 5-1-03 Zarbafi Estates Future Land Use Plan Map

Prepared By: CMG
Date Prepared: 8/2/03



Date Flown:
12/31/00



Planning & Zoning Division - GIS



VARIANCE **V 5-1-03 Zarbafi Estates** **Future Land Use Plan Map**

Prepared By: CMG
Date Prepared: 8/2/03